REMARKS

Claims 1-20, 22-30 and 32-37 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 103(a) Rejections:

The Examiner rejected claims 16, 18-20, 24, 26, 28-30, 33, 34, 36 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of what is well known in the art, claims 1-3, 5, 7-9, 11, 12, 14 and 15 as being unpatentable over Shapira in view of Gerace (U.S. Patent 5,991,735), claims 4, 10 and 13 as being unpatentable over Shapira in view of Gerace and further in view of Bodnar et al. (U.S. Patent 6,295,541) (hereinafter "Bodnar"), claims 17, 23, 27, 32 and 35 as being unpatentable over Shapira in view of Bodnar, claim 6 as being unpatentable over Shapira and Gerace and in view of Farrow et al. (U.S. Patent 6,374,295) (hereinafter "Farrow"), and claim 25 as being unpatentable over Shapira in view of Farrow. Applicant respectfully traverses these rejections for at least the following reasons.

Regarding claim 16, contrary to the Examiner's assertion, Shapira in view of what is well known in the art fails to teach or suggest *storing one or more identifiers, wherein each identifier corresponds to a computer user accessing said web site, wherein said each identifier comprises an Internet address and a time value, wherein the time value is associated with a launch of a web browser on the client computer system; receiving a request from a first computer user to access the web site, wherein said request comprises a first identifier corresponding to said first computer user accessing said web site, wherein said first identifier comprises a first Internet address, and a first time value associated with a launch of a web browser on the client computer system; and identifying said first identifier as a distinct computer user if said searching for said first identifier did not result in a match, wherein a match comprises a match between the first Internet address, and the Internet address in one of said one or more stored identifiers and a*

match between the first time value and the time value in the one of said one or more stored identifiers.

Concerning claim 16, and citing Shapira in paragraph 45 of the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner asserts that "[it] is very clear that the server receives the traffic data hit 11a and that what is sent in this traffic data hit, as explained in the tables found in column 4, is a GMT time of the request." **But Shapira does not teach or suggest that the GMT time of the request is sent by the remote visitor in the "traffic data hit."** Rather, Shapira says in column 1, line 40, that at the website each hit is "encoded with the date and time of the access." In fact, Shapira states at column 7, lines 58-60, that "If the visitor address already existed at step 510, then at step 520 the date and time of the current hit are determined." Thus, Shapira explicitly teaches that the date and time of the hit are determined **at the web site only after the hit has already been received**. The "hit" referred to in Shapira is not described as including a time value when it is received at the web server.

In column 5, Shapira describes a sequence of events. Shapira says that "upon receiving the traffic data hit" (col.5, line 35), the "first web server 10 sends data back to the remote visitor" (col. 5, lines 37-38). Subsequently, "the first web server also writes an entry in its log file memorializing the request" (col. 5, lines 39-40). Writing of the entry into the log file includes storing "the time and date of the request" (col. 5, line 44) and storing "the request issued by the remote visitor," (col. 5, line 46). This clearly suggests that the request by the remote visitor (a "GET" instruction), and the time and date of the request, are two distinct elements, for memorializing the request in the web server's log file. Nowhere does Shapira teach or suggest that the remote visitor has sent a time value in the request, as required by claim 16. Rather, Shapira suggests that the time and date are determined at the server.

Furthermore, even if a request in Shapira did include a time value, Shapira does not teach or suggest the limitation of claim 16 that a time value included with the request is associated with the launch of a web browser on the client computer

system, as recited in claim 16. In paragraph 47 of the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner asserts that "with the Examiner's scenario, a browser is opened and the "home page" is called upon which would send a Traffic Data Hit, associated with Shapira, and in this traffic data hit there would be a time of request as taught by Shapira." As outlined in the remarks pertaining to the Examiner's paragraph 45, **the request issued by the remote visitor is not described in Shapira as including a time value**. In paragraph 48 of the Response to Arguments section, the Examiner asserts that it is well known that Microsoft's® Internet Explorer and Netscape's® Internet Browser have the ability to have a home page of the user's choosing open when Internet Explorer is launched. **However, the Examiner has not provided any evidence of record showing that when Microsoft's® Internet Explorer or Netscape's® Internet Browser access a home page after being launched that a time value associated with the launch of the browser is included with the request.** Neither Shapira nor any other evidence of record teaches the above-noted limitation of claim 16.

Moreover, Shapira does not disclose using a time value associated with a launch of a web browser on the client computer system and included in a request to identify a first identifier as a distinct computer user, according to the limitations of Applicant's claim. The limitations of claim 16 recite that the "first time value associated with the launch of a web browser on the client computer system" is used to identify "a distinct computer user," in contrast with Shapira's techniques. Specifically, as is very clearly illustrated in Fig. 8 and described at col. 7, line 42 – col. 8, line 6, Shapira uses the time of the current hit only to determine whether or not the current hit is part of a current session or a new session for the same visitor. **Shapira does not use the time of the current hit to identify a distinct user – Shapira only uses the time of the current hit to determine whether or not the current hit is part of a current session or a new session for the same visitor.** In fact, Shapira only teaches a tracking cookie for identification of distinct users accessing a web site, described in the second table, column 4 as being "permissively used to identify a particular visitor."

Furthermore, claim 16 requires that a match comprises a match between the first Internet address, and the Internet address in one of said one or more stored identifiers and a match between the first time value and the time value in the one of said one or more stored identifiers, where both the time value stored by the web site server and the first time value included with the request are associated with a launch of a web browser on the client computer system. Under the Examiner's "home page" hypothetical, Shapira's system would never have such a match. The Examiner's unsupported hypothetical is that an initial "home page" request from a browser may have a time value associate with the launch of the browser. However, to meet the limitations of claim 16, the web server database in Shapira would have to already have stored an entry including a time value associated with the launch of the browser. This would not be possible since no request prior to the "home page" request would have been received. Under the Examiner's "home page" hypothetical, the home page request would be the first request after the launch of the browser; **therefore, the web site could not already have stored an entry with a time value associated with the launch of the browser that could be compared to the time value for the "home page" request**.

Claims 19, 30, 34, and 37 include limitations similar to those discussed above regarding claim 16, and so the arguments presented above apply with equal force to these claims as well.

Independent claims 20, 26, and 29 include the limitation, "wherein the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard," or a similar limitation, and also include limitations involving determining whether the first computer user is a distinct user by comparing stored synchronization time values with synchronization time values received with a request. **Shapira in view of what is well known in the art fails to teach or suggest any such synchronization, much less receiving a request that includes a time value reflecting a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard**, or **determining whether the first computer user is a distinct user by comparing such a synchronization time**

value with stored synchronization time values. Shapira's server is not described as receiving a time value with a request at all. Moreover, even if a time value was included with the requests in Shapira, any such time value would not reflect a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. The time values in Shapira are explicitly describes as the time of when the hit was received by the server, not a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. Furthermore, Shapira uses time values to distinguish between sessions for the same visitor, not to determine whether a user is a distinct user.

In the Response to Arguments section of the office action mailed September 21, 2007, paragraph 55, the Examiner again refers to Shapira's table in column 4, and to column 5, lines 41 et seq., noting that "Shapira's time was set or "synchronized" with a global time standard. On this basis, and in reference to claim 20, the Examiner concludes that "the prior art teaches the claim language as stated by the Applicant." **The Examiner has misread the claim.** The claim does not state that the time is recorded in a global time format. Instead, the claims recites that the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. In contrast, Shapira explicitly teaches, e.g., in column 1, line 40, that each hit is encoded with date and time of access. Thus, the time recorded in Shapira is the time the web server is accessed, not a time when the user's computer was synchronized to a global time standard. Moreover, as elaborated before, the date and time of access in Shapira is memorialized by the server itself, not sent to the server by the remote visitor's computer. Shapira mentions absolutely nothing of the remote visitor's computer being synchronized with a global time standard, as recited claim 20, nor that the request sent by the remote visitor's computer includes a time value reflecting a time at which the computer was synchronized with a global time standard, as further recited in claim 20. For at least the reasons above, the rejection of claims 20, 26, and 29 is not supported by the cited art and removal thereof is respectfully requested.

Regarding claim 1, Shapira in view of Gerace fails to teach or suggest receiving a first request from a first computer to access the web site, sending a request for information to the first computer, where the information includes a first Internet address and a first time value corresponding to the first computer, receiving the information and determining whether a matching record for the first Internet address and the first time value exists in the database. Applicant previously argued that Shapira's system already includes determining the IP address and the date/time of access from the traffic hit data supplied when the client computer requests access to web pages, and that, consequently there would be no need to modify Shapira's system to include the cookies of Gerace to collect this information.

In the Response to Arguments section of the Office Action mailed September 21, 2007, Examiner again cites Shapira in view of Gerace in paragraph 55, writing that "the use of Gerace's cookies and the information stored in those cookies, time and IP address, in combination with Shapira, teaches the claim language. However, Shapira teaches, in column 22, line 16, that each visitor session has its own unique timing clock, which the server constructs, as outlined above, by encoding the date and time of access of each hit into its log file. Therefore Shapira's system has no need for what the Examiner calls "Gerace's cookies and the information stored in those cookies" to generate the unique timing clocks. Applicant asserts that the Examiner's remarks are completely unsupported by the cited art.

In paragraph 55 of the Response to Arguments section, the Examiner states that he is using the same rationale to combine the teachings of the references that Applicant uses in his invention. **However, the Applicant's rationale is not prior art. It is a fundamental premise of patent law that the Applicant's own teachings cannot be used against him.** Therefore, on its face, the Examiner's rejection is improper.

Furthermore, the teachings of Gerace pertain to a login request, whereas Shapira's system pertains to hits that are part of ongoing or new sessions. The login cookie of Grace is not applicable to the session hits in Shapira's system.

Moreover, requiring user login by requesting user name and password would not make sense in Shapira's system. Shapira teaches a system for assigning various profiles to users accessing a web server in order to help determine the relative value of various advertising campaigns for a web site. Thus, Shapira is concerned with counting the various users accessing a web site via various advertising links to the web site. Requiring a user name and password would surely be counter to a system intended to determine the quality and value of visitors (not members) to a web site. Since the use of cookies and user registrations are typically considered to be intrusive to visitors, requiring user login by requesting a user name and password, as taught by Gerace would not make sense in a system designed to analyze visitors visiting a web site via advertising links, as taught by Shapira.

Further in regard to claim 1, the cited art does not teach or suggest *determining whether a matching record for said first Internet address and said first time value exists in said database; and identifying said first computer as a distinct user if said matching record does not exist in said database*. Specifically, as is very clearly illustrated in Fig. 8 and described at col. 7, line 42 – col. 8, line 6, Shapira uses the time of the current hit only to determine whether or not the current hit is part of a current session or a new session for the same visitor. **Shapira does not use the time of the current hit to identify a distinct user – Shapira only uses the time of the current hit to determine whether or not the current hit is part of a current session or a new session for the same visitor.** In fact, Shapira only teaches a tracking cookie for identification of distinct users accessing a web site, described in the second table, column 4 as being "permissively used to identify a particular visitor." The "matching" described in Shapira is for distinguishing between sessions of the same visitor, not for identifying distinct users.

Therefore, for at least the reasons above, the rejection of claim 1 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 9 and 15.

The Examiner rejected independent claim 12 for the same reasons as claims 1, 2, 3, 5, 7, and 8. Claim 12 includes limitations similar to some of those discussed above regarding claim 1. Therefore, the arguments presented above apply with equal force to this claim, as well. In addition, claim 12 includes limitations not recited in any of these claims. For example, claim 12 recites, "wherein the client computer system is operable to…**execute a program to synchronize time**," which is not recited in claims 1, 2, 3, 5, 7, and 8, and is not taught by Shapira in view of Gerace. Since **the Examiner failed to address the differences between claims 1, 2, 3, 5, 7, and 8 on the one hand, and claim 12 on the other**, the Examiner has failed to state a *prima facie* rejection of claim 12.

For at least the reasons above, the rejection of claim 12 is unsupported by the cited art and removal thereof is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5596-00200/RCK.

Respectfully submitted,

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